

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation )  
Against: )**

**Robert Paul Zgliniec, M.D. )**

**Case No. 800-2017-030726**

**Physician's and Surgeon's )  
Certificate No. C 35020 )**

**Respondent )  
\_\_\_\_\_ )**

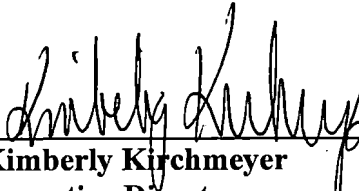
**DECISION**

**The attached Stipulated Surrender of License and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on October 22, 2019.**

**IT IS SO ORDERED October 15, 2019.**

**MEDICAL BOARD OF CALIFORNIA**

  
\_\_\_\_\_  
**Kimberly Kirchmeyer  
Executive Director**

1 XAVIER BECERRA  
Attorney General of California  
2 MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
3 JASON J. AHN  
Deputy Attorney General  
4 State Bar No. 253172  
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8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2017-030726

14 **ROBERT PAUL ZGLINIEC, M.D.**  
12913 Avenida La Valenica  
Poway, CA 92064

**STIPULATED SURRENDER OF  
LICENSE AND DISCIPLINARY ORDER**

15 **Physician's and Surgeon's Certificate**  
16 **No. C 35020**

17 Respondent.

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20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
24 of California (Board). She brought this action solely in her official capacity and is represented in  
25 this matter by Xavier Becerra, Attorney General of the State of California, by Jason J. Ahn,  
26 Deputy Attorney General.

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2. Robert Paul Zgliniec, M.D. (Respondent) is represented in this proceeding by attorney Robert W. Frank, Esq., whose address is: 110 West A Street, Suite 1200, San Diego, CA 92101.

3. On or about May 7, 1973, the Board issued Physician's and Surgeon's Certificate No. C 35020 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-030726 and will expire on June 30, 2020, unless renewed.

## JURISDICTION

4. On August 14, 2019, Accusation No. 800-2017-030726 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 14, 2019. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2017-030726 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 800-2017-030726. Respondent also has carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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13. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Executive Director on behalf of the Board does not, in her discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

## ADDITIONAL PROVISIONS

14. This Stipulated Surrender of License and Order is intended by the parties herein to be an integrated writing representing the complete, final, and exclusive embodiment of the agreements of the parties in the above-entitled matter.

15. The parties agree that copies of this Stipulated Surrender of License and Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

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16. In consideration of the foregoing admissions and stipulations, the parties agree the Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Disciplinary Order:

## ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 35020, issued to Respondent Robert Paul Zgliniec, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2017-030726 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2017-030726 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully  
3 discussed it with my attorney Robert W. Frank, Esq. I understand the stipulation and the effect it  
4 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of  
5 License and Order voluntarily, knowingly, and intelligently, and fully agree to be bound by the  
6 Decision and Order of the Medical Board of California.

7  
8 DATED: 9/16/2019 Robert Paul Zgliniec MD  
9 ROBERT PAUL ZGLINIEC, M.D.  
10 Respondent

11 I have read and fully discussed with Respondent Robert Paul Zgliniec, M.D. the terms and  
12 conditions and other matters contained in this Stipulated Surrender of License and Order. I  
13 approve its form and content.

14  
15 DATED: 9-20-19 R. W. Frank  
16 ROBERT W. FRANK, ESQ.  
17 Attorney for Respondent  
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**ENDORSEMENT**

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 9/20/19

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
MATTHEW M. DAVIS  
Supervising Deputy Attorney General



JASON J. AHN  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2017-030726**

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MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
JASON J. AHN  
Deputy Attorney General  
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*Attorneys for Complainant*

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**Robert Paul Zgliniec, M.D.**  
**12913 Avenida La Valencia**  
**Poway, CA 92064**

**Physician's and Surgeon's Certificate**  
**No. C 35020,**

Respondent.

Case No. 800-2017-030726

**A C C U S A T I O N**

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about May 7, 1973, the Medical Board issued Physician's and Surgeon's Certificate No. C 35020 to Robert Paul Zgliniec, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2020, unless renewed.

## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

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1       5.     Section 2234 of the Code, states:

2             “The board shall take action against any licensee who is charged with  
3     unprofessional conduct. In addition to other provisions of this article, unprofessional  
4     conduct includes, but is not limited to, the following:

5             “ . . .

6             “(b) Gross negligence.

7             “(c) Repeated negligent acts. To be repeated, there must be two or more  
8     negligent acts or omissions. An initial negligent act or omission followed by a  
9     separate and distinct departure from the applicable standard of care shall constitute  
10    repeated negligent acts.

11            “(1) An initial negligent diagnosis followed by an act or omission medically  
12    appropriate for that negligent diagnosis of the patient shall constitute a single  
13    negligent act.

14            “(2) When the standard of care requires a change in the diagnosis, act, or  
15    omission that constitutes the negligent act described in paragraph (1), including, but  
16    not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
17    licensee’s conduct departs from the applicable standard of care, each departure  
18    constitutes a separate and distinct breach of the standard of care.

19            “ . . . ”

20       6.     Section 2266 of the Code states:

21            “The failure of a physician and surgeon to maintain adequate and accurate records  
22    relating to the provision of services to their patients constitutes unprofessional conduct.”

23       7.     Unprofessional conduct under Business and Professions Code section 2234 is  
24    conduct which breaches the rules or ethical code of the medical profession, or conduct  
25    which is unbecoming a member in good standing of the medical profession, and which  
26    demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners*  
27    (1978) 81 Cal.App.3d 564, 575.)

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 8. Respondent has subjected his Physician's and Surgeon's Certificate No.  
4 C 35020 to disciplinary action under sections 2227 and 2234, as defined by section 2234,  
5 subdivision (b), of the Code, in that he committed gross negligence in his care and  
6 treatment of Patient A,<sup>1</sup> as more particularly alleged hereinafter:

7 **Patient A**

8 9. Patient A first presented to Respondent in or around August 2009,<sup>2</sup> after having  
9 been incarcerated and having stayed at a psychiatric hospital in El Cajon, California.

10 10. Patient A's prior medical history included, but was not limited to, hearing  
11 impairment, chronic back pain with L5 radiculopathy,<sup>3</sup> lumbar surgery, 13 reported  
12 surgeries and a motor vehicle accident, left knee replacement, ORIF<sup>4</sup> at the left  
13 acetabulum<sup>5</sup> posteriorly, tobacco use, depression, hypertension,<sup>6</sup> dyslipidemia,<sup>7</sup> BPH<sup>8</sup>  
14 without obstruction, right plantar fasciitis<sup>9</sup> and an infected dog bite on his right forearm.

15 \_\_\_\_\_  
16 <sup>1</sup> References to Patient A are used to protect patient privacy.

17 <sup>2</sup> Conduct occurring more than seven (7) years from the filing date of this  
18 Accusation is for informational purposes only and is not alleged as a basis for disciplinary  
19 action.

20 <sup>3</sup> Radiculopathy refers to a disease of the root of a nerve, such as from a pinched  
21 nerve or a tumor.

22 <sup>4</sup> ORIF (open reduction and internal fixation) is a type of surgery used to fix broken  
23 bones.

24 <sup>5</sup> Acetabulum is the deep, cup-shaped structure that encloses the head of the femur  
25 at the hip joint.

26 <sup>6</sup> Hypertension refers to high blood pressure.

27 <sup>7</sup> Dyslipidemia refers to abnormally elevated cholesterol or fats (lipids) in the  
28 blood.

<sup>8</sup> BPH (benign prostatic hyperplasia) refers to a common, non-cancerous  
enlargement of the prostate gland.

<sup>9</sup> Fasciitis is an inflammation of the fascia, which is the connective tissue  
surrounding muscles, blood vessels and nerves.

1 11. Between on or about July 20, 2012 through on or about January 25,  
2 2016, Respondent prescribed various controlled substances to Patient A, including,  
3 but not limited to morphine sulfate,<sup>10</sup> temazepam,<sup>11</sup> and oxycodone hcl-  
4 acetaminophen.<sup>12</sup>

5 12. Patient A had a history of "misplaced" pain medications. On multiple  
6 occasions, Patient A made "early refill" requests. During the time Respondent  
7 prescribed controlled substances to Patient A, noted above, Respondent failed to  
8 utilize and/or failed to document having utilized random urine toxicology tests.

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12 <sup>10</sup> MS Contin® (morphine sulfate), an opioid analgesic, is a Schedule II controlled  
13 substance pursuant to Health and Safety Code section 11055, subdivision (e), and a  
14 dangerous drug pursuant to Business and Professions Code section 4022. When properly  
15 prescribed and indicated, it is used for the management of pain that is severe enough to  
16 require daily, around-the-clock, long-term opioid treatment and for which alternative  
17 treatment options are inadequate. The Drug Enforcement Administration has identified  
oxycodone, as a drug of abuse. (Drugs of Abuse, A DEA Resource Guide (2011 Edition),  
at p. 39.) The Federal Drug Administration has issued a black box warning for MS  
Contin® which warns about, among other things, addiction, abuse and misuse, and the  
possibility of life-threatening respiratory distress. The warning also cautions about the  
risks associated with concomitant use of MS Contin® with benzodiazepines or other  
central nervous system (CNS) depressants.

18 <sup>11</sup> Restoril® (temazepam), a benzodiazepine, is a centrally acting hypnotic-sedative  
19 that is a Schedule IV controlled substance pursuant to Health and Safety Code section  
20 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code  
21 section 4022. When properly prescribed and indicated, it is used to treat seizure disorders  
22 and panic disorders. Concomitant use of Restoril® with opioids "may result in profound  
sedation, respiratory depression, coma, and death." The Drug Enforcement Administration  
(DEA) has identified benzodiazepines, such as Restoril®, as drug of abuse. (Drugs of  
Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

23 <sup>12</sup> Percocet® (oxycodone and acetaminophen), an opioid analgesic, is a Schedule II  
24 controlled substance pursuant to Health and Safety Code section 11055, subdivision (b),  
25 and a dangerous drug pursuant to Business and Professions Code section 4022. When  
26 properly prescribed and indicated, it is used for the management of moderate to moderately  
27 severe pain. The Drug Enforcement Administration has identified oxycodone, as a drug of  
28 abuse. (Drugs of Abuse, A DEA Resource Guide (2011 Edition), at p. 41.) The Federal  
Drug Administration has issued a black box warning for Percocet® which warns about,  
among other things, addiction, abuse and misuse, and the possibility of "life-threatening  
respiratory distress."

1           13. Respondent committed gross negligence in his care and treatment of Patient A,  
2 which included, but was not limited to, the following:

3           (a) While prescribing controlled substances to Patient A, Respondent failed  
4 to utilize and/or failed to document having utilized random urine toxicology tests.

5                           **SECOND CAUSE FOR DISCIPLINE**

6                                   **(Repeated Negligent Acts)**

7           14. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
8 C 35020 to disciplinary action under sections 2227 and 2234, as defined by section 2234,  
9 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and  
10 treatment of Patients A, B,<sup>13</sup> C, and D as more particularly alleged herein.

11           (a) Paragraphs 8 through 13, above, are hereby incorporated by reference  
12 and realleged as if fully set forth herein.

13                   **Patient B**

14           15. Respondent began treating Patient B around April 2011.<sup>14</sup> Patient B had a  
15 history of pneumothorax,<sup>15</sup> depression, melanoma,<sup>16</sup> hypertension, and alcohol  
16 dependence.

17           16. Between on or about August 18, 2012 through on or about December 2, 2013,  
18 Respondent prescribed Norco<sup>17</sup> to Patient A, on multiple occasions.

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20           <sup>13</sup> References to Patients A, B, C, and D are used in order to protect patient privacy.

21           <sup>14</sup> Conduct occurring more than seven (7) years from the filing date of this  
22 Accusation is for informational purposes only and is not alleged as a basis for disciplinary  
23 action.

23           <sup>15</sup> Pneumothorax refers to a collapsed lung.

24           <sup>16</sup> Melanoma refers to the most serious type of skin cancer.

25           <sup>17</sup> Hydrocodone APAP (Vicodin®, Lortab® and Norco®) is a hydrocodone  
26 combination of hydrocodone bitartrate and acetaminophen which was formerly a Schedule  
27 III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e),  
28 and a dangerous drug pursuant to Business and Professions Code section 4022. On August  
22, 2014, the DEA published a final rule rescheduling hydrocodone combination products  
(HCPs) to schedule II of the Controlled Substances Act, which became effective October 6,  
2014. Schedule II controlled substances are substances that have a currently accepted

1 17. On or about July 26, 2011, Patient B presented to Respondent with neck pain,  
2 claiming that he had stopped drinking alcohol "forever." Patient B's x-rays showed mild  
3 grade 1 anterolisthesis<sup>18</sup> at C3-4, mild disc height loss of C5-6, and moderate at C6-7, mild  
4 neural foraminal narrowing<sup>19</sup> in the mid and lower cervical spine, old right clavicle<sup>20</sup>  
5 fracture, and old posterior right rib fracture. Respondent initiated low dose hydrocodone  
6 with acetaminophen and cyclobenzaprine.<sup>21</sup>

7 18. In December 2011, Patient B underwent a low anterior resection due to  
8 recurrent symptoms of diverticulitis<sup>22</sup> and a possible rupture.

9 19. In or around July 2013, Patient B's wife left for travel and Patient B resumed  
10 drinking alcohol.

11 20. On or about August 23, 2013, Patient B presented to another physician and  
12 surgeon with vomiting and alcoholism. Patient B was advised to taper his alcohol  
13 consumption and was prescribed Ativan.<sup>23</sup>

14 medical use in the United States, but also have a high potential for abuse, and the abuse of  
15 which may lead to severe psychological or physical dependence. When properly  
16 prescribed and indicated, it is used for the treatment of moderate to severe pain. In  
17 addition to the potential for psychological and physical dependence there is also the risk of  
18 acute liver failure which has resulted in a black box warning being issued by the Federal  
19 Drug Administration (FDA). The FDA black box warning provides that "Acetaminophen  
has been associated with cases of acute liver failure, at times resulting in liver transplant  
and death. Most of the cases of liver injury are associated with use of the acetaminophen at  
doses that exceed 4000 milligrams per day, and often involve more than one  
acetaminophen containing product."

20 <sup>18</sup> Anterolisthesis is a spine condition in which the upper vertebral body, the drum-  
shaped area in front of each vertebrae, slips forward onto the vertebra below.

21 <sup>19</sup> Foraminal (Stenosis) is the narrowing of the cervical disc space caused by  
22 enlargement of a joint in the spinal canal.

23 <sup>20</sup> Clavicle or collarbone is a long bone that serves as a strut between the shoulder  
blade and the sternum or breastbone.

24 <sup>21</sup> Cyclobenzaprine is a muscle relaxant.

25 <sup>22</sup> Diverticulitis refers to an inflammation or infection in one or more small pouches  
26 in the digestive tract.

27 <sup>23</sup> Ativan® (lorazepam), a benzodiazepine, is a centrally acting hypnotic-sedative  
28 that is a Schedule IV controlled substance pursuant to Health and Safety Code section  
11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code



21. On or about August 25, 2013, Patient B presented to an urgent care center and another physician and surgeon prescribed Librium<sup>24</sup> for alcohol withdrawal.

22. On or about September 3, 2013, Patient B presented to Respondent. Patient B presented with anxious/fearful thoughts, depressed mood, difficulty concentrating, diminished interest or pleasure, easily startled, fatigue, feelings of invulnerability, loss of appetite, restlessness. According to Patient B, his depression was aggravated by alcohol use and conflict or stress.

23. During the time Respondent prescribed controlled substances to Patient B, noted above, Respondent failed to utilize and/or failed to document having utilized random urine toxicology tests.

#### **Patient C**

24. Patient C first presented to Respondent in or around January 2002.<sup>25</sup> Patient C's medical history included, but was not limited to, hypothyroidism,<sup>26</sup> breast cancer, hypertension, chronic fatigue syndrome, back pain, transient ischemic<sup>27</sup> attack, pulmonary

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section 4022. When properly prescribed and indicated, it is used for the management of anxiety disorders or for the short term relief of anxiety or anxiety associated with depressive symptoms. Concomitant use of Ativan® with opioids "may result in profound sedation, respiratory depression, coma, and death." The Drug Enforcement Administration (DEA) has identified benzodiazepines, such as Ativan®, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

<sup>24</sup> Librium (Chlordiazepoxide) is a sedative, which can be used to treat anxiety, alcohol withdrawal symptoms, and tremor.

<sup>25</sup> Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

<sup>26</sup> Hypothyroidism is a condition in which the thyroid gland is not able to produce enough thyroid hormone.

<sup>27</sup> Ischemia is a restriction in blood supply to tissues, causing a shortage of oxygen that is needed for cellular metabolism.

1 fibrosis,<sup>28</sup> dyslipidemia,<sup>29</sup> osteoporosis,<sup>30</sup> fibromyalgia,<sup>31</sup> partial hysterectomy,<sup>32</sup> mild right  
2 tibiofemoral compartment osteoarthritis,<sup>33</sup> posterior fusion T10-12 with T12  
3 corpectomy,<sup>34</sup> and multiple sclerosis.

4 25. Between on or about July 30, 2012 through on or about June 20, 2016, on  
5 multiple occasions, Respondent prescribed various controlled substances to Patient C,  
6 including, but not limited to, hydrocodone-bitartrate-acetaminophen,<sup>35</sup> Lorazepam,<sup>36</sup> and

7 <sup>28</sup> Pulmonary fibrosis is a lung disease that occurs when lung tissue becomes  
8 damaged and scarred.

9 <sup>29</sup> Dyslipidemia refers to abnormally elevated cholesterol or fats (lipids) in the  
10 blood.

11 <sup>30</sup> Osteoporosis is a condition in which bones become weak and brittle.

12 <sup>31</sup> Fibromyalgia is a disorder characterized by widespread musculoskeletal pain  
13 accompanied by fatigue, sleep, memory and mood issues.

14 <sup>32</sup> Hysterectomy is an operation to remove a woman's uterus.

15 <sup>33</sup> Osteoarthritis is a type of arthritis that occurs when flexible tissue at the ends of  
16 bones wears down.

17 <sup>34</sup> Corpectomy is a surgical procedure that involves removing all or part of the  
18 vertebral body, usually as a way to decompress the spinal cord and nerves.

19 <sup>35</sup> Hydrocodone APAP (Vicodin®, Lortab® and Norco®) is a hydrocodone  
20 combination of hydrocodone bitartrate and acetaminophen which was formerly a Schedule  
21 III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e),  
22 and a dangerous drug pursuant to Business and Professions Code section 4022. On August  
23 22, 2014, the DEA published a final rule rescheduling hydrocodone combination products  
24 (HCPs) to schedule II of the Controlled Substances Act, which became effective October 6,  
25 2014. Schedule II controlled substances are substances that have a currently accepted  
26 medical use in the United States, but also have a high potential for abuse, and the abuse of  
27 which may lead to severe psychological or physical dependence. When properly  
28 prescribed and indicated, it is used for the treatment of moderate to severe pain. In  
addition to the potential for psychological and physical dependence there is also the risk of  
acute liver failure which has resulted in a black box warning being issued by the Federal  
Drug Administration (FDA). The FDA black box warning provides that "Acetaminophen  
has been associated with cases of acute liver failure, at times resulting in liver transplant  
and death. Most of the cases of liver injury are associated with use of the acetaminophen at  
doses that exceed 4000 milligrams per day, and often involve more than one  
acetaminophen containing product."

26 <sup>36</sup> Ativan® (lorazepam), a benzodiazepine, is a centrally acting hypnotic-sedative  
27 that is a Schedule IV controlled substance pursuant to Health and Safety Code section  
28 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code  
section 4022. When properly prescribed and indicated, it is used for the management of  
anxiety disorders or for the short term relief of anxiety or anxiety associated with

1 oxycodone hcl.<sup>37</sup>

2 26. During the time Respondent prescribed controlled substances to Patient C,  
3 noted above, Respondent failed to utilize and/or failed to document having utilized random  
4 urine toxicology tests.

5 **Patient D**

6 27. Patient D first presented to Respondent in or around January 2010.<sup>38</sup> Patient D  
7 was diagnosed with chronic pain syndrome, obstructive sleep apnea,<sup>39</sup> vitamin D  
8 deficiency, colon polyps,<sup>40</sup> basal cell carcinoma<sup>41</sup> at right mid-back and left infraorbital  
9 rim, anxiety, hyperlipidemia,<sup>42</sup> sinus congestion, bronchospasm,<sup>43</sup> restless leg syndrome,  
10 ingrown toenail, and was a former smoker.

11  
12 depressive symptoms. Concomitant use of Ativan® with opioids “may result in profound  
13 sedation, respiratory depression, coma, and death.” The Drug Enforcement Administration  
(DEA) has identified benzodiazepines, such as Ativan®, as a drug of abuse. (Drugs of  
14 Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

15 <sup>37</sup> Oxycodone HCL (OxyContin®) is a Schedule II controlled substances pursuant  
16 to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant  
17 to Business and Professions Code section 4022. When properly prescribed and indicated,  
18 Oxycodone HCL is used for the management of pain severe enough to require daily,  
around-the-clock, long term opioid treatment for which alternative treatment options are  
19 inadequate. The Drug Enforcement Administration (DEA) has identified oxycodone, as a  
20 drug of abuse. (Drugs of Abuse, A DEA Resource Guide (2011 Edition), at p. 41.) The  
21 risk of respiratory depression and overdose is increased with the concomitant use of  
22 benzodiazepines or when prescribed to patients with pre-existing respiratory depression.

23 <sup>38</sup> Conduct occurring more than seven (7) years from the filing date of this  
24 Accusation is for informational purposes only and is not alleged as a basis for disciplinary  
25 action.

26 <sup>39</sup> Sleep apnea is a potentially serious sleep disorder in which breathing repeatedly  
27 stops and starts.

28 <sup>40</sup> Colon polyp is a small clump of cells that forms on the lining of the colon or  
rectum.

<sup>41</sup> Basal cell carcinoma is a type of skin cancer that begins in the basal cells.

<sup>42</sup> Hyperlipidemia is a condition in which there are high levels of fat particles  
(lipids) in the blood.

<sup>43</sup> Bronchospasm is a sudden constriction of the muscles in the walls of the  
bronchioles.

28. Between on or about February 25, 2014 through on or about May 2, 2016, Respondent prescribed various controlled substances to Patient D, including, but not limited to, hydrocodone bitartrate-acetaminophen,<sup>44</sup> alprazolam,<sup>45</sup> and acetaminophen-hydrocodone bitartrate.<sup>46</sup>

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<sup>44</sup> Hydrocodone APAP (Vicodin®, Lortab® and Norco®) is a hydrocodone combination of hydrocodone bitartrate and acetaminophen which was formerly a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022. On August 22, 2014, the DEA published a final rule rescheduling hydrocodone combination products (HCPs) to schedule II of the Controlled Substances Act, which became effective October 6, 2014. Schedule II controlled substances are substances that have a currently accepted medical use in the United States, but also have a high potential for abuse, and the abuse of which may lead to severe psychological or physical dependence. When properly prescribed and indicated, it is used for the treatment of moderate to severe pain. In addition to the potential for psychological and physical dependence there is also the risk of acute liver failure which has resulted in a black box warning being issued by the Federal Drug Administration (FDA). The FDA black box warning provides that "Acetaminophen has been associated with cases of acute liver failure, at times resulting in liver transplant and death. Most of the cases of liver injury are associated with use of the acetaminophen at doses that exceed 4000 milligrams per day, and often involve more than one acetaminophen containing product."

<sup>45</sup> Xanax® (alprazolam), a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the management of anxiety disorders. Concomitant use of Xanax® with opioids "may result in profound sedation, respiratory depression, coma, and death." The Drug Enforcement Administration (DEA) has identified benzodiazepines, such as Xanax®, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

<sup>46</sup> Hydrocodone APAP (Vicodin®, Lortab® and Norco®) is a hydrocodone combination of hydrocodone bitartrate and acetaminophen which was formerly a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022. On August 22, 2014, the DEA published a final rule rescheduling hydrocodone combination products (HCPs) to schedule II of the Controlled Substances Act, which became effective October 6, 2014. Schedule II controlled substances are substances that have a currently accepted medical use in the United States, but also have a high potential for abuse, and the abuse of which may lead to severe psychological or physical dependence. When properly prescribed and indicated, it is used for the treatment of moderate to severe pain. In addition to the potential for psychological and physical dependence there is also the risk of acute liver failure which has resulted in a black box warning being issued by the Federal Drug Administration (FDA). The FDA black box warning provides that "Acetaminophen has been associated with cases of acute liver failure, at times resulting in liver transplant and death. Most of the cases of liver injury are associated with use of the acetaminophen at doses that exceed 4000 milligrams per day, and often involve more than one acetaminophen containing product."

1       29. During the time Respondent prescribed controlled substances to Patient D,  
2 noted above, Respondent failed to utilize and/or failed to document having utilized random  
3 urine toxicology tests.

4       30. Respondent committed repeated negligent acts in his care and treatment of  
5 Patients A, B, C, and D, which included, but were not limited to, the following:

6       (a) Paragraphs 8 through 27, above, are hereby incorporated by reference  
7 and realleged as if fully set forth herein;

8       (b) During the time Respondent prescribed controlled substances to Patient A,  
9 Respondent failed to utilize and/or failed to document having utilized random urine  
10 toxicology tests;

11       (c) During the time Respondent prescribed controlled substances to Patient B,  
12 Respondent failed to utilize and/or failed to document having utilized random urine  
13 toxicology tests;

14       (d) During the time Respondent prescribed controlled substances to Patient C,  
15 Respondent failed to utilize and/or failed to document having utilized random urine  
16 toxicology tests; and

17       (e) During the time Respondent prescribed controlled substances to Patient D,  
18 Respondent failed to utilize and/or failed to document having utilized random urine  
19 toxicology tests.

20                               **THIRD CAUSE FOR DISCIPLINE**

21                               **(Failure to Maintain Adequate and Accurate Records)**

22       31. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
23 C 35020 to disciplinary action under sections 2227 and 2234, as defined by section 2266,  
24 of the Code, in that Respondent failed to maintain adequate and accurate records regarding  
25 his care and treatment of Patients A, B, C, and D, as more particularly alleged in  
26 paragraphs 8 through 30, above, which are hereby incorporated by reference and realleged  
27 as if fully set forth herein.

28       ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(General Unprofessional Conduct)**

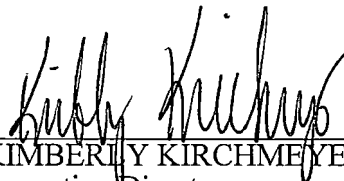
3 32. Respondent has further subjected his Physician's and Surgeon's Certificate  
4 No. C 35020 to disciplinary action under sections 2227 and 2234 of the Code, in that he  
5 has engaged in conduct which breaches the rules or ethical code of the medical profession,  
6 or conduct which is unbecoming to a member in good standing of the medical profession,  
7 and which demonstrates an unfitness to practice medicine, as more particularly alleged in  
8 paragraphs 8 through 31, above, which are hereby incorporated by reference as if fully set  
9 forth herein.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
12 alleged, and that following the hearing, the Medical Board of California issue a decision:

- 13 1. Revoking or suspending Physician's and Surgeon's Certificate Number C  
14 35020, issued to Robert Paul Zgliniec, M.D.;
- 15 2. Revoking, suspending or denying approval of Robert Paul Zgliniec, M.D.'s  
16 authority to supervise physician assistants and advanced practice nurses;
- 17 3. Ordering Robert Paul Zgliniec, M.D., if placed on probation, to pay the Board  
18 the costs of probation monitoring; and
- 19 4. Taking such other and further action as deemed necessary and proper.

20  
21 DATED: August 14, 2019

22   
23 KIMBERLY KIRCHMEYER  
24 Executive Director  
25 Medical Board of California  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant

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